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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,061

11/20/2006

Wilhelm Maurer

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EXAMINER

CHIN SHUE, ALVIN C

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

05/02/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/568,061	MAURER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alvin C. Chin-Shue	3634	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,6-18,20-25,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-18,20-25,28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,6,7,9,10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastrogiannis in view of Kitson. Mastrogiannis in fig. 10 shows an arrangement comprising consoles at 16”, rack-like component at 92 and retaining bar at 2 and personal safety device at 20”, the claimed difference being the handle. Kitson shows a handle at 2 for movement within a track. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Mastrogiannis with a handle in his slot 50, as his bolt, as taught by Kitson, to provide a safety handle for a user.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mastrogiannis in view of Kitson, as applied to claim 1 above, and further in view of Vollan et al. Vollan shows a harness at 41,42. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Mastrogiannis with a harness, as taught by Vollan, to provide a safety device for a user.

Claims 1,6,7,8 and 10 are rejected under 35 U.S.C. 102(b) as being unpatentable over Ho in fig. 10 and figs.1 at 71 in view of Taylor. Ho shows a handle at 110 and platform at 120 and two console in fig. 1 at 71, the claimed difference being the safety device. Taylor shows a harness at 66,68. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Ho with a harness, as taught by Taylor, to provide a safety device for a user.

Claims 4 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho and Taylor, as applied to claim 1 above, and further in view of Bennett. Ho in fig.10 and at 71 in fig.1 shows the claimed arrangement with the exception of the rack component and pinion element and gear. Bennett shows a pinion 26, rack 13 and a gear drive at 41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise rack and pinion force transmitting means and gear drive, as taught by Bennett, by the substituted of one known force transmitting and drive means for another for their known advantages. The examiner takes OFFICIAL NOTICE that the provision of controls on handles is conventional, and the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Ho to comprise handles with his control and for his motors to be operated by generators and rechargeable battery packs, as set forth in claim 16, in view of the conventional teachings.

Claims 6-8,11,17,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho and Taylor, as applied to claim 1 above, and further in view of either Freeman or Maubach et al. Ho, as applied above, shows the claimed arrangement with the exception of the centrifugal brake. Freeman shows a centrifugal brake at 100. Maubach shows a centrifugal brake at 18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise a force transmitting element with a centrifugal brake, as taught by either Freeman or Maubach, to inhibit motion in a downward direction.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of Taylor and either Freeman or Maubach et al, as applied to claim 17 above, and further in view of Forbes. Forbes teaches the practice of alternately lifting of a pair of consoles as a climbing method. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to alternately lift his consoles, as taught by Forbes, as a known method of climbing.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho and Taylor, as applied to claim 1 above, and further in view of Schworer. Ho,

as applied above, shows the claimed arrangement with the exception of the automatically controlled drive to enable alternating drive of the consoles. Schworer teaches automatically controlled drives to enable alternating movement of consoles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho for his climbing aids to comprise automatically controlled drives, as taught by Schworer, to enable alternating movement of this aids. The examiner takes OFFICIAL NOTICE that the provision of controls on handles is conventional, and the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise handles with his control and for his motors to be operated by generators and rechargeable battery packs, as set forth in claim 22, in view of the conventional teachings.

Claims 4, 10 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastrogiannis in view of Kitson, as applied to claim 1 above, and further in view of Bixby. Mastrogiannis, as applied above, shows the claimed arrangement with the exception of the rack component and pinion element, gear and motor. Bixby shows a pinion 29, rack 26 and a gear drive at 28. It would have

been obvious to one of ordinary skill in the art at the time the invention was made to modify Mastrogiannis for his arrangement to comprise rack and pinion force transmitting means and gear drive, as taught by Bixby, by the substituted of one known force transmitting means for another for their known advantages. The examiner takes OFFICIAL NOTICE that the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mastrogiannis his motors to be operated by generators and rechargeable battery packs, as set forth in claim 16, in view of the conventional teachings.

Claims 6-8,11,17,18,28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastrogiannis in view of Kitson and Bixby, as applied to claim 4 above, and further in view of either Freeman or Maubach et al. Mastrogiannis, as applied above, shows the claimed arrangement with the exception of the centrifugal brake. Freeman shows a centrifugal brake at 100. Maubach shows a centrifugal brake at 18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mastrogiannis to comprise a force transmitting element with a centrifugal brake, as taught by either Freeman or Maubach, to inhibit motion in a downward direction.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mastrogiannis in view of Kitson and Bixby, as applied to claim above, and further in view of Schworer. Mastrogiannis, as applied above, shows the claimed arrangement with the exception of the automatically controlled drive to enable alternating drive of the consoles. Schworer teaches automatically controlled drives to enable alternating movement of consoles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mastrogiannis for his climbing aids to comprise automatically controlled drives, as taught by Schworer, to facilitate alternating movement of this aids. The examiner takes OFFICIAL NOTICE that the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise handles with his control and for his motors to be operated by generators and rechargeable battery packs, as set forth in claim 22, in view of the conventional teachings.

Applicant's arguments filed 2/24/11 have been fully considered but they are not persuasive. With respect to Ho, applicant argues that Ho shows only a single slider (console) 14 for an occupant 15, the examiner notes that the rejection by Ho, (and stated in the rejection above) is directed to fig.1 at 71 showing two



slider/consoles, with the details of each slider/console shown in fig.10, wherein each of the sliders/console are independently operable, also, with respect to applicant's about one rail-like profile, the examiner notes that Ho "COMPRISES" one rail-like profile, note that comprising one rail-like profile does not preclude another rail-like profile., also the broad limitation "arranged AT the one rail-like profile" does not state that both consoles are on one profile as appears to be argued by applicant. With respect to Mastrogianis, applicant argues that Mastrogianis does not disclose use of two consoles as disclosed and claimed by Applicants wherein each console is longitudinally extended with a handle arranged at the top end in the direction of ascent and a platform arranged at the downward end, and wherein a personal safety device is provided on the climbing aid. The examiner notes that applicant has broadly claimed a console, and Mastrogianis disclose consoles which are longitudinally extended, note portions from platform 16 to at 10 in fig.2, also as modified by Kitson et al, the handle would be "AT" a top end, as broadly recited, also the claims do not limit a console to be a unitary structure as argued with the handle being "ON" the console. With respect to the secondary applied references the examiner notes that in applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In

re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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